

## **Commission Meeting Minutes December 8, 2021**

Chairman Philip Y. Brown called the meeting to order at 11:10 AM. Chairman Brown acknowledged the other Commissioners participating: Commissioners Kathy Fallon, Michael Leung-Tat, James Machado, and Richard MacKinnon. Commissioner Jennifer Sullivan arrived at approximately 11:30 AM and Commissioner Kate Fitzpatrick was not in attendance. All attendees participated remotely pursuant to Section 20 of Chapter 20 of the Acts of 2021. Therefore, the Chairman announced the meeting was being recorded and any votes in this meeting shall be taken by roll call vote.

PERAC staff remotely in attendance: Executive Director John Parsons, Deputy Executive Director Caroline Carcia, General Counsel Judith Corrigan, Assistant Deputy Director Bill Keefe, Assistant Deputy Director Ken Hill, Compliance Director Tom O'Donnell, Compliance Analyst John Galvin, Senior Associate General Counsel Patrick Charles, Associate General Counsel Felicia McGinniss, Project Manager Tony Tse, Communications Director Natacha Dunker, Audit Director Caryn Shea, Fraud Prevention Manager Sandra King, and Senior Executive Assistant Kim Boisvert.

Guests participating remotely: Sean Neilon representing the Massachusetts Teachers' Retirement System, John Brown representing Middlesex County and Fitchburg Retirement Systems and MACRS, Kathleen Kiely-Becchetti representing Norfolk County and Watertown Retirement Systems and MACRS, Patrick Brock representing Hampshire County Retirement System, and Brendan McGough representing the State Retirement System.

Commissioner Fallon made a motion to adopt the November 10, 2021 Commission meeting minutes. Commissioner MacKinnon seconded the motion and a roll call vote was taken:

Chairman Philip Brown YES, Commissioners Kathy Fallon YES, Michael Leung-Tat YES, James Machado YES, and Richard MacKinnon YES, and the minutes were unanimously adopted.

### **Legal Update**

Ms. Corrigan reported that Ms. Katie Bensele is out on maternity leave and wished her well. She further stated that the Legal Unit would be reporting on 2 cases and a discussion about approving Executive Session Minutes.

- Mr. Hill reported on the *Morales v. Lawrence Retirement Board and PERAC*, a decision that had gone up to Superior Court regarding being in the performance of one's duties when traveling from a non-work obligation to work. On remand, CRAB found that Mr. Morales was not in the performance of his duties when injured.
- Ms. McGinniss reported on *George Demeris v. Town of Foxborough*, a published decision of the Appeals Court, which contained several errors regarding the maximum age of retirement for those in public safety. PERAC filed a motion for reconsideration or modification of the Appeals Court's opinion on October 18, 2021. The Appeals Court granted a portion of our Motion and issued a partially corrected decision.

Ms. Corrigan asked the Commission's direction about how it wishes to approve its executive session minutes going forward. The Commission could go into executive session (under Purpose 7 of the Open Meeting Law) to approve the executive session minutes of the meetings or the Commission could designate its chair or some other individual to review and approve the executive session minutes. The Attorney General's office has suggested the second method to review and approve the executive session minutes. Ms. Corrigan also reminded the Commission that whichever method they decide to use, they will still need to review the executive session minutes to determine, on an annual basis, if the minutes still need to be withheld from public view.

Mr. Parsons stated that when the Commission met in person it was easier to approve the executive session minutes.

Commissioner Machado made a motion to designate the Chair to review and approve the executive session minutes. Commissioner Leung-Tat seconded the motion and a roll call vote was taken:

Chairman Philip Brown YES, Commissioners Kathy Fallon YES, Michael Leung-Tat YES, James Machado YES, and Richard MacKinnon YES, and the motion was adopted.

### **Legislative Update**

Mr. Keefe explained that the Public Service Committee favorably reported 6 of the 7 PERAC bills. Each of the 6 bills are now with the House Ways and Means Committee. He also reported that the H16 and Public Service Committee held its last hearing of bills filed in accordance with filing deadlines, hearing 37 bills. H4171, a veterans' buyback bill was among those bills heard. Mr. Keefe then reported that PERAC has to provide 18 cost analyses for classification bills that are before the Public Service Committee. The Legislature continues to meet in informal session, formal session will resume January 5, 2022 and continue until July 31, 2022.

Mr. Keefe reported that the Consensus Revenue Hearing for the FY 23 budget will be held on December 21, 2021 and that the Governor's budget must be filed by January 26, 2022.

Mr. Keefe updated the Commission about the Pension Obligation Bonds for Brockton and Quincy. He then stated that the House Ways and Means Committee has before it legislation that was filed for the Town of Nantucket to issue Pension Obligation Bonds.

Mr. Keefe indicated the Department of Revenue reported that November revenue totaled \$2.4 million, or 8.7% greater than the month's benchmark. Through the first five months of FY 22, the state is now \$914M ahead of benchmark.

Mr. Keefe then reported that PRIM had an October return of 2.64% and has hit a new milestone with a value of just under \$101 billion. For a calendar year-to-date the fund's return has been 17.31%, with a one-year figure of 29.9%. Through the first four months of FY 22, PRIM is up 5.19%.

### **Audit Update**

Ms. Shea reported that since the last Commission meeting, PERAC has released the Saugus Audit which was a limited scope audit and stated that there were no findings. Additionally, she reported on the findings for two follow-up audits which were conducted since the last meeting: the Barnstable County and Middlesex County Retirement Systems. Ms. Shea reported on the audits in the field work phase, those audits waiting for board responses, those audits pending exit reviews, and on the number of audits in the planning phase.

### **Compliance Update**

Mr. O'Donnell reported that to date, there have been 1,766 course completions by board members and this is similar to prior years. In addition, procurements for 131 investment service providers have been acknowledged.

The Commission inquired if the boards have provided any feedback on webinars. Mr. O'Donnell reported that the feedback has been positive and that the members are very pleased with the opportunity to attend the webinars, although they are looking forward to some of the larger conferences that PERAC and MACRS typically hold.

### **Executive Director's Report**

Mr. Parsons discussed staff activities since the last Commission meeting which are highlighted in the meeting materials. He also discussed numerous training opportunities that will be scheduled in the next calendar year. He also updated the Commission on the State Auditor's Office conducting an audit at PERAC.

Mr. Parsons updated the Commission that in accordance with PERAC Regulation 840 CMR 10:10(3) and 10:15(1)(c), an Annual Review of Medical Testing Fees must take place. His recommendation is that PERAC continue the same limit of \$100.00 for any possible medical testing for calendar year 2022.

Commissioner Machado made a motion to keep the Medical Testing Fee at \$100.00 according to the recommendation made. Commissioner Fallon seconded the motion and a roll call vote was taken as follows:

Chairman Philip Brown YES, Commissioners Kathy Fallon YES, Michael Leung-Tat YES, James Machado YES, Richard MacKinnon YES, and Jennifer Sullivan YES, and the motion was adopted.

Mr. Parsons stated that Caryn Shea, Bill Keefe, and he continue to meet with the Hampden County administrator on a weekly basis to review and oversee the steps taken by the board to remedy the issues reported in the last audit. He also reported that interviews are being conducted for the positions of chairman and one elected member. The Board is also searching for a new executive director. He expects that each of the replacements will be complete by January 2022. The Board is also hiring a deputy director. He continued that the Hampden County Retirement System assets are fully invested in PRIM. The Board is no longer paying their investment consultant and have adopted the GIC cost share for health insurance.

Mr. Parsons updated the Commission about the parking challenges at 5 Middlesex Avenue. The new owners are moving the 17 reserved spaces over to the other side of the building. He and Ms. Carcia have negotiated a monthly parking cost of \$250 per month per vehicle at surrounding parking garages. He inquired if the Commission would pay for the parking for staff for the balance of the fiscal year which would come out of PERAC's current budget. He stated that this matter isn't just an issue for PERAC but also the gym, school and Cambridge Health Alliance. Mr. Parsons continued that 5 Middlesex Avenue is expected to be demolished and we are currently engaged with DCAM regarding new space as our lease expires in 1 ½ years.

A lengthy discussion ensued regarding the available parking spaces, a long-term solution, paying for some of the cost versus the whole amount, discussing this matter again in the spring, other available parking space, and notification to staff that this benefit should not be expected to continue in the future.

Commissioner MacKinnon made a motion to reimburse PERAC staff for the parking for the balance of this fiscal year. Commissioner Machado seconded the motion and a roll call vote was taken as follows:

Chairman Philip Brown YES, Commissioners Kathy Fallon YES, Michael Leung-Tat NO, James Machado YES, Richard MacKinnon YES, and Jennifer Sullivan YES, and the motion carried.

Mr. Parsons talked about PERAC Memo # 32/2021, regarding Cybersecurity and Internal Control. This Memo requires the retirement boards to immediately report to PERAC any attempted or successful cyber intrusion, and immediate assessment of the IT environment in conjunction with their IT service provider. It is expected that all board members and staff will attend a comprehensive cybersecurity awareness program that PERAC is working on, and will develop an Internal Control Plan at each system. He stated that PERAC would increase emphasis during their audits relative to the above requirements.

A discussion followed, the Commission believes that the direction given in PERAC Memo # 32/2021 shows real leadership and will provide real value along with the assistance that PERAC already provides to the systems.

### **Other Business**

Chairman Brown announced that the next Commission meeting will be held on Wednesday, January 12, 2022 at 11:00 AM. He continued that the Commission will be going into Executive Session under Purpose 7 and will not return to open session today.

### **Executive Session – Purpose 7**

At 12:12 PM Commissioner Sullivan made a motion to vote that the Commission go into executive session, pursuant to its authority under General Laws Chapter 7, Section 50 and General Laws Chapter 32, Sections 21 and 23(4). It was announced that the Commission will not reconvene in open session. Commissioner Machado seconded the motion and a roll call vote was taken as follows: Chairman Philip Brown YES, Commissioners Kathy Fallon YES, Michael Leung-Tat YES, James Machado YES, Richard MacKinnon YES, and Jennifer Sullivan YES, and the motion was unanimously adopted.

**Commission Meeting Documents**

Commission Agenda for the meeting of December 8, 2021

Commission Minutes dated November 10, 2021

**Legal Update**

*Morales v. Lawrence Retirement Board & PERAC*, CR-13-079

*George Demeris v. Town of Foxborough*, No. 2019-P-1780

**Legislative Update**

Memorandum regarding Legislative updates

**Audit Update**

Audit Findings Cover Page

Saugus Retirement System Audit (2015-2018)

Barnstable County Follow-up

Middlesex Follow-up

Audit Tracking Report

**Compliance Update**

Memorandum regarding Compliance updates

**Executive Director's Report**

Staff Activities

Medical Testing Fee Memo

PERAC Memo # 32/2021

Approved:



Philip Y. Brown, Chairman  
Public Employee Retirement  
Administration Commission